

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

JOHN MOSS, III,

Petitioner,

v.

Case No. 2:09-cv-01406

DAVID BALLARD, Warden,  
Mount Olive Correctional Complex,

Respondent.

O R D E R

By Order entered January 6, 2010 (docket # 6), the Court directed Respondent to file an answer or other pleading solely on the issues of timeliness of the petition and exhaustion of state court remedies. Respondent filed a comprehensive document with exhibits, establishing that the Petition is timely and Petitioner has exhausted his state court remedies. Accordingly, it is hereby **ORDERED** that Petitioner's request to respond on timeliness and exhaustion (# 9) is denied.

Pursuant to the provisions of Rule 81(a)(2), Fed. R. Civ. Pro. and Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, it is hereby **ORDERED** that Respondent shall file his answer, together with such transcripts and exhibits as may be relevant, on or before **September 17, 2010**.

Petitioner has filed a Motion for Appointment of Counsel (# 10). If an evidentiary hearing is deemed to be necessary, counsel will be appointed to represent Petitioner. It is hereby **ORDERED**

that the Motion is denied without prejudice.

The Clerk is directed to transmit a copy of this Order to Managing Deputy Attorney General Silas B. Taylor, and to mail a copy of this Order to Petitioner.

ENTER: June 22, 2010

  
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Mary E. Stanley  
United States Magistrate Judge